

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**Item No. 8
Doc. No. 2**

**TENTATIVE ORDER NO. R9-2004-0100
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
SAN DIEGO COUNTY WATER AUTHORITY
BRADLEY PARK PIPELINES 3 & 4 RELOCATION PROJECT
VIOLATION
OF
ORDER NO. R9-2001-0096, NPDES NO. CAG919002
GENERAL WASTE DISCHARGE REQUIREMENTS FOR GROUNDWATER
EXTRACTION WASTE DISCHARGES FROM CONSTRUCTION, REMEDIATION,
AND PERMANENT GROUNDWATER EXTRACTION PROJECTS TO SURFACE
WATERS WITHIN THE SAN DIEGO REGION, EXCEPT FOR SAN DIEGO BAY**

The California Regional Water Quality Control Board, San Diego Region (hereafter Regional Board), having received a signed waiver of public hearing form with a \$12,000 check and having reviewed the allegations contained in Complaint No. R9-2004-0077, dated March 9, 2004, and on the recommendation for administrative assessment of Civil Liability pursuant to California Water Code section 13385 in the amount of \$12,000, finds as follows:

1. The San Diego County Water Authority is solely responsible for the Bradley Park Pipelines 3 & 4 Relocation Project located in the vicinity of Rancho Santa Fe Road and Linda Vista Street, San Marcos, California. On July 10, 2003, the Regional Board enrolled the San Diego County Water Authority under Order No. R9-2001-0096 to discharge remediated groundwater to San Marcos Creek (WDID No. 9 000001027).
2. On December 9 and 31, 2003 the San Diego County Water Authority violated Order No. R9-2001-0096, *NPDES No. CAG919002, General Waste Discharge Requirements for Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region, Except for San Diego Bay*. The Discharge Specifications' section of Order No. R9-2001-0096 states that the Instantaneous Maximum Effluent Limitation for "Discharges to Inland Surface Waters" is 2 mg/L for Total Nitrogen and 0.05 mg/L for Manganese. On December 31, 2003, the Regional Board received the San Diego County Water Authority's December 2003 monthly monitoring report with results of sampling on December 9, 2003 of 2.5 mg/L of Total Nitrogen, 0.091 mg/L of Manganese and 0.14 mg/L of Total Phosphorus. Therefore the San Diego County Water Authority violated the Instantaneous Maximum Effluent Limitation for Total Nitrogen by 25% and Manganese by greater than 40%.
3. The Discharge Specifications' section of Order No. R9-2001-0096 states that the Average Monthly Effluent Limitation for "Discharges to Inland Surface Waters" is 1 mg/L for Total Nitrogen and 0.1 mg/L for Total Phosphorus. No other Total Nitrogen or Total Phosphorus results were reported for December 2003. Thus the Average Monthly Effluent Limitation of December 2003 for Total Nitrogen was at least 2.5 mg/L, more

than 40% greater than the Effluent Limitation, and for Total Phosphorus was at least 0.14 mg/L, 40% greater than the Effluent Limitation.

4. Water Code Section 13385(h)(2) states that a “serious violation” means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more, or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more. Total Nitrogen, Total Phosphorus and Manganese are Group I pollutants.
5. Consideration of the factors prescribed in California Water Code Section 13385(e) based upon information available to the Regional Board supports assessment of civil liability pursuant to Water Code section 13385(i) in the amount of \$12,000. Furthermore, Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. Under Water Code section 13385(h) the amount of the mandatory minimum penalty that must be assessed is \$12,000 for the serious violation.
6. The Regional Board incurred costs totaling \$1,927, to prosecute this enforcement action; the costs include investigation, preparation of enforcement documents, and communication with the Discharger.
7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that pursuant to section 13385 of the California Water Code, civil liability is imposed on the San Diego County Water Authority in the amount of twelve thousand dollars (\$12,000).

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on May 12, 2004.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer